



The Honorable Lee Terry
Chairman, Subcommittee on Commerce,
Manufacturing and Trade
Committee on Energy and Commerce
United States House of Representatives
Washington, D.C. 20515

The Honorable Jan Schakowsky
Ranking Member, Subcommittee on Commerce,
Manufacturing, and Trade
Committee on Energy and Commerce
United States House of Representatives
Washington, D.C. 20515

July 10, 2014

Dear Chairman Terry and Ranking Member Schakowsky:

On behalf of the roughly 14,000 financial institutions of all sizes and charters represented by the American Bankers Association (ABA), the Credit Union National Association (CUNA), Independent Community Bankers of America (ICBA), and National Association of Federal Credit Unions (NAFCU), we are writing to commend you for your leadership in developing legislation to tackle the scourge of bad faith patent demand letters.

Financial institutions of every size have been targeted by Patent Assertion Entities (PAEs), often referred to as patent trolls, who in most cases assert patents of dubious quality through vaguely worded demand letters or intentionally vague complaints. Indeed, patent trolls' recent focus on credit unions and community banks threatens to pose additional, unwarranted costs on lenders and the communities they serve. In our industry alone, there are hundreds of examples of a patent troll attempting to sell a product—the patent license—to a bank or credit union using tactics resembling fraud or extortion.

Your bill would clarify the Federal Trade Commission (FTC)'s authority to fight against deceptive practices, while not affecting legitimate patent holders' rights to send demand letters or otherwise assert their patent rights. FTC and state Attorneys General enforcement could help alter the fraudulent business model of trolls by removing some of their financial incentive to send intentionally vague demand letters in the hope of quick settlements. Added transparency could also help businesses make sense of a letter upon receipt so they are better equipped to fight the claim.

We encourage the Committee to do more to ensure this legislation can be an effective tool. In particular, expanding the definition of "bad faith," or removing the requirement altogether, would help ensure more small businesses can enjoy the protections of the bill. In addition, we note that states have proven to be effective laboratories for developing and furthering robust policy relating to patent trolls. While most states could see a reduction in unsubstantiated bad faith demand letters if this legislation were to be enacted, the bill should also allow states that

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have proactively enacted laws to discourage bad faith demand letters to continue to enforce them.

Your bill is a positive step towards addressing the problem demand letters pose to small businesses. We look forward to continuing to work with the Committee and stakeholders to craft a bipartisan solution that directly addresses the growing abuse of our patent system and these specious claims that are having a negative impact on our industry, our customers, and the American economy.

Sincerely,

American Bankers Association

Credit Union National Association

Independent Community Bankers of America

National Association of Federal Credit Unions

CC: Members of the Subcommittee on Commerce, Manufacturing & Trade